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Robert E. Best JR.

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EXAMINER

VAN HANDEL, MICHAEL P

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/026,835	Applicant(s) BEST ET AL.	
	Examiner MICHAEL VAN HANDEL	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-53, 58-63 and 68-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-53, 58-63, 68-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/02/2009 has been entered.

Response to Amendment

2. This action is responsive to an Amendment filed 10/02/2009. Claims **48-53, 58-63, 68-73** are pending. Claims **48, 58, 61, 68** are amended. Claims **1-47, 54-57, 64-67, 74-77** are canceled.

Response to Arguments

3. Applicant's arguments regarding claims **48, 58**, and **68**, filed 10/02/2009, have been considered, but are moot in view of the new ground(s) of rejection.

Claim Objections

4. Claim **68** is objected to because of the following informalities:

Referring to claim **68**, the examiner notes that the phrase "determines that the user is in the vicinity of the computer a television" is confusing. The examiner recommends that the

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phrase be changed to “determines that the user is in the vicinity of a television,” similar to that in claims 48 and 58, and interprets the claim in the Office Action below as though the recommended changes have been made.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims **48-53**, **58-63**, **68-73** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims **48**, **58**, and **68**, the examiner fails to find support in Applicant’s specification for the phrases “when the presence detector determines that the user is in the vicinity of a television, sending a presence indicator signal from the presence detector to the computer” “determining, by the computer, an action to be taken based on the presence indicator signal and a source of the presence indicator signal” and “sending the action to the television” within the context of the claims. Specifically, the first limitation of the claim, “transmitting an activation signal from a presence detector to an interface unit connected in a series connection between a computer and a keyboard” is supported in paragraph 35 of Applicant’s specification,

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and is presented as a computer embodiment. Applicant indicates that support for the claim amendments can be found at paragraph 43 of the specification. Paragraph 43 of Applicant's specification states that computer 870 can be coupled to a presence detector 875 and a data communications link 842. Computer 870 can include presence detector instructions and user profile data to direct actions when presence detector 875 determines that a user is in the vicinity of the computer (paragraph 43 of Applicant's specification). That is, the computer will execute instructions corresponding to the computer when a user is detected within the vicinity of the computer. Paragraph 43 goes on to state that computer 870 can be a home entertainment server that is coupled to television 850. When presence detector 855 determines that a user is in the vicinity of television 850, the presence detector 855 can send a presence indicator to computer 870. Computer 870 can determine whether any information delivery action is to be taken based at least in part on the presence indicator and the source of the presence indicator and send an information delivery action to television 850 (paragraph 43 of Applicant's specification). That is, the computer determines the action to carry out and delivers it to the television after the presence detector at the television detects the user, not the presence detector at the computer that includes the interface unit connected in a series connection between a computer and a keyboard.

Regarding claims **49-51, 53, 59-61, 63, 69-71, and 73**, the examiner notes that Applicant's specification discloses the actions of launching applications, retrieving weather and traffic information, and refreshing a webpage as computer-based actions in computer embodiments, but not in television embodiments. As noted in the Office Action mailed 7/06/2009, paragraph 43 states that computer 870 determines whether any information delivery action is to be taken based in part on the *source* of the presence indicator (italicized for

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emphasis). This implies that television/set-top box related actions (such as described in Table 3) will be taken in response to detection at the television/set-top box, while computer-related actions (such as described in Tables 1 and 2) will be taken in response to detection at the computer. Performing the computer-related functions of launching applications, retrieving weather and traffic information, and refreshing a webpage in response to an activation signal at the television does not appear to be supported by Applicant's specification. Applicant's specification describes computer-related actions being performed upon detection of a user at a computer (Tables 1 & 2), television/set-top related actions being performed upon detection of a user at a television/set-top box (Table 3), and stereo-related functions being performed upon detection of a user at a stereo (Table 4). The purpose of using the computer as a home entertainment server in Applicant's specification appears only to be to store the information delivery actions for the information delivery systems in a single location.

Claims **52**, **62**, and **72** are rejected as being dependent on the aforementioned independent claims.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim **48** is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta et al.

(Gutta et al. I hereinafter)(US 2002/0144259)(of record) in view of Given (of record).

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Referring to claim **48**, Gutta et al. I discloses a method, comprising:

- transmitting an activation signal from a presence detector (step 405)(p. 2, paragraph 24 & Fig. 4);
- in response to the activation signal, receiving an identification signal at the presence detector, the identification signal comprising a user identifier that identifies a user (step 410)(p. 2, paragraph 24 & Fig. 4);
- when the presence detector determines that the user is in the vicinity of a television, sending a presence indicator signal from the presence detector to the computer (p. 2, paragraphs 18, 24 & Fig. 1);
- determining, by the computer, an action to be taken based on the presence indicator signal and a source of the presence indicator signal (step 430)(p. 2, 3, paragraph 26 & Fig. 4); and
- sending the action to the television (step 430)(p. 2, paragraphs 20, 22, 23 & Figs. 2-4).

Gutta et al. I does not specifically disclose the identification signal identifies a user associated with a transponder. Given discloses utilizing a radio transmitter and receiver combination, one on the user and one at a terminal, as a proximity sensor. Such a sensor could include a badge (containing a passive transponder) that is passed near a transmitter to detect a user's presence (col. 4, l. 17-35). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to replace the camera in the monitoring system of Gutta et al. I with radio transmitters and receivers, such as that taught by Given in order to reduce cost. The combination of Gutta et al. I and Given teaches entering a power save mode when the user

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remains away from the vicinity of the media player for a certain amount of time (Gutta et al. I p. 2, paragraph 23 & Fig. 3). The combination of Gutta et al. I and Given does not specifically teach transmitting an activation from the presence detector to an interface unit connected in a series connection between a computer and a keyboard and sending a keyboard signal from the interface unit over the series connection to the computer, the keyboard signal comprising the user identifier and instructing the computer to deactivate a screen saver. Given discloses providing the sensor by connecting it to a keyboard interface 200 serially connected to a keyboard and a computer (Fig. 1). In this way, the keyboard interface can act by sending an artificial “keystroke” in the same manner as a keyboard signal (col. 2, l. 14-18). As long as the user stays within close proximity to the computer, the screen saver is deactivated, but if the separation between the transmitter and receiver becomes great enough, the screen saver is activated (col. 2, l. 15-20 & col. 4, l. 22-25). It would have been obvious to modify the personal computer sensing system in the combination of Gutta et al. I and Given to include connecting the sensors to a keyboard interface connected serially to a keyboard and computer and to further deactivate a screen saver in response to a user's proximity, such as that taught by Given in order to allow easy implementation of actions through a commonly used interface.

9. Claims **49-51**, **53** rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta I in view of Given, and further in view of Frengut et al. (of record).

Referring to claims **49-51** and **53**, the combination of Gutta I and Given teaches the method according to claim 48. The combination of Gutta I and Given does not specifically teach launching an application, launching an application based on time of day, launching an

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application that retrieves weather and traffic information, or requesting a refresh of a webpage in response to the user identifier. Frengut et al. discloses generating a custom web page upon identifying a user (p. 2, paragraph 26). The web page is generated using time references to assure that the databases are continuously current and updated with the latest information (p. 6, 7, paragraph 48). The web page also includes weather information (p. 2, paragraph 26), as well as traffic information (p. 6, paragraph 41). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the computer of Gutta I in the combination of Gutta I and Given to generate a custom and updated webpage including weather and traffic information, such as that taught by Frengut et al. in order to provide a more efficient method of disseminating information to consumers (Frengut et al. p. 1, paragraph 7).

10. Claim **52** is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta I in view of Given, and further in view of Stas et al. (of record).

Referring to claim **52**, the combination of Gutta I and Given teaches the method according to claim 48. The combination of Gutta I and Given does not specifically teach denying access to the computer when an aggregate amount of access is exceeded. Stas et al. discloses a system in which a total time limit on the number of viewing hours per day, week, or month can be set (col. 8, l. 18-27). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Gutta I and Given to include setting a time limit on the number of viewing hours, such as that taught by Stas et al. in order to allow a parent a comprehensive and user-friendly control for permitted viewing times for a predetermined future time period (Stas et al. col. 1, l. 65-67 & col. 2, l. 1-2).

11. Claims **58**, **68** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta I in view of Given, and further in view of Gutta et al. (Gutta II hereinafter)(US 2002/0194586)(of record).

Referring to claim **58**, Gutta I discloses a system, comprising:

- a processor executing instructions stored in memory that cause the processor to:
 - transmit an activation signal from a presence detector (step 405)(p. 2, paragraph 24 & Fig. 4);
 - in response to the activation signal, receive an identification signal at the presence detector, the identification signal comprising a user identifier that identifies a user (step 410)(p. 2, paragraph 24 & Fig. 4);
 - when the presence detector determines that the user is in the vicinity of a television, sending a presence indicator signal from the presence detector to the computer (p. 2, paragraphs 18, 24 & Fig. 1);
 - query for a user profile associated with the user identifier (p. 2, paragraphs 19-21 & Fig. 2);
 - access the user profile to determine an action to be taken based on the presence indicator signal and a source of the presence indicator signal (p. 2, paragraphs 19-21 & Fig. 2);
 - send the action to the television (step 430)(p. 2, paragraphs 20, 22, 23 & Figs. 2-4);

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- send the user identifier to a presence database (p. 2, paragraph 19-21 & Fig. 2); and
- update the presence database to indicate the user is in the vicinity of the computer (p. 2, paragraph 19-21 & Fig. 2);

Gutta et al. I does not specifically disclose the identification signal identifies a user associated with a transponder. Given discloses utilizing a radio transmitter and receiver combination, one on the user and one at a terminal, as a proximity sensor. Such a sensor could include a badge (containing a passive transponder) that is passed near a transmitter to detect a user's presence (col. 4, l. 17-35). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to replace the camera in the monitoring system of Gutta et al. I with radio transmitters and receivers, such as that taught by Given in order to reduce cost. The combination of Gutta et al. I and Given teaches entering a power save mode when the user remains away from the vicinity of the media player for a certain amount of time (Gutta et al. I p. 2, paragraph 23 & Fig. 3). The combination of Gutta et al. I and Given does not specifically teach transmitting an activation from the presence detector to an interface unit connected in a series connection between a computer and a keyboard and sending a keyboard signal from the interface unit over the series connection to the computer, the keyboard signal comprising the user identifier and instructing the computer to deactivate a screen saver. Given discloses providing the sensor by connecting it to a keyboard interface 200 serially connected to a keyboard and a computer (Fig. 1). In this way, the keyboard interface can act by sending an artificial "keystroke" in the same manner as a keyboard signal (col. 2, l. 14-18). As long as the user stays within close proximity to the computer, the screen saver is deactivated, but if the separation

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between the transmitter and receiver becomes great enough, the screen saver is activated (col. 2, l. 15-20 & col. 4, l. 22-25). It would have been obvious to modify the personal computer sensing system in the combination of Gutta et al. I and Given to include connecting the sensors to a keyboard interface connected serially to a keyboard and computer and to further deactivate a screen saver in response to a user's proximity, such as that taught by Given in order to allow easy implementation of actions through a commonly used interface.

The combination of Gutta I and Given does not specifically teach querying the presence database for other user identifiers associated with the user identifier and communicating to the other user identifiers that the user is in the vicinity of the computer. Gutta II et al. discloses a system that creates a composite user profile based on individual profiles for each user detected within the television viewing area (see Abstract). When all users in the viewing area are detected and identified, a profile for each user is retrieved for further processing. The profiles of detected users are then combined into a composite user profile and a list of entertainment option recommendations is generated based on the composite user profile (p. 3, paragraph 26). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the user detection system in the combination of Gutta I et al. and Given to include creating a composite profile out of the individual profiles of the detected users, such as that taught by Gutta II et al. in order to better recommend shows for a plurality of viewers (Gutta II et al. p. 1, paragraph 9).

Referring to claim **68**, Gutta I et al. discloses a computer readable medium storing processor executable instructions for performing a method, the method comprising:

- transmitting an activation signal (step 405)(p. 2, paragraph 24 & Fig. 4);

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- in response to the activation signal, receiving an identification signal, the identification signal comprising a user identifier that identifies a user (step 410)(p. 2, paragraph 24 & Fig. 4);
- when it is determined that the user is in the vicinity of a television, sending a presence indicator signal to the computer (p. 2, paragraphs 18, 24 & Fig. 1);
- sending the action to the television (step 430)(p. 2, paragraphs 20, 22, 23 & Figs. 2-4);
- querying for a user profile associated with the user identifier (p. 2, paragraphs 19-21 & Fig. 2);
- accessing the user profile to determine an action to be taken based on the presence indicator and a source of the presence indicator signal (p. 2, paragraphs 19-21 & Fig. 2);
- sending the user identifier to a presence database (p. 2, paragraph 19-21 & Fig. 2); and
- updating the presence database to indicate the user is in the vicinity of the computer (p. 2, paragraph 19-21 & Fig. 2);

Gutta et al. I does not specifically disclose the identification signal identifies a user associated with a transponder. Given discloses utilizing a radio transmitter and receiver combination, one on the user and one at a terminal, as a proximity sensor. Such a sensor could include a badge (containing a passive transponder) that is passed near a transmitter to detect a user's presence (col. 4, l. 17-35). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to replace the camera in the monitoring system of Gutta et al. I with

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radio transmitters and receivers, such as that taught by Given in order to reduce cost. The combination of Gutta et al. I and Given teaches entering a power save mode when the user remains away from the vicinity of the media player for a certain amount of time (Gutta et al. I p. 2, paragraph 23 & Fig. 3). The combination of Gutta et al. I and Given does not specifically teach transmitting an activation from the presence detector to an interface unit connected in a series connection between a computer and a keyboard and sending a keyboard signal from the interface unit over the series connection to the computer, the keyboard signal comprising the user identifier and instructing the computer to deactivate a screen saver. Given discloses providing the sensor by connecting it to a keyboard interface 200 serially connected to a keyboard and a computer (Fig. 1). In this way, the keyboard interface can act by sending an artificial “keystroke” in the same manner as a keyboard signal (col. 2, l. 14-18). As long as the user stays within close proximity to the computer, the screen saver is deactivated, but if the separation between the transmitter and receiver becomes great enough, the screen saver is activated (col. 2, l. 15-20 & col. 4, l. 22-25). It would have been obvious to modify the personal computer sensing system in the combination of Gutta et al. I and Given to include connecting the sensors to a keyboard interface connected serially to a keyboard and computer and to further deactivate a screen saver in response to a user's proximity, such as that taught by Given in order to allow easy implementation of actions through a commonly used interface.

The combination of Gutta I and Given does not specifically teach querying the presence database for other user identifiers associated with the user identifier and communicating to the other user identifiers that the user is in the vicinity of the computer. Gutta II et al. discloses a system that creates a composite user profile based on individual profiles for each user detected

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within the television viewing area (see Abstract). When all users in the viewing area are detected and identified, a profile for each user is retrieved for further processing. The profiles of detected users are then combined into a composite user profile and a list of entertainment option recommendations is generated based on the composite user profile (p. 3, paragraph 26). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the user detection system in the combination of Gutta I et al. and Given to include creating a composite profile out of the individual profiles of the detected users, such as that taught by Gutta II et al. in order to better recommend shows for a plurality of viewers (Gutta II et al. p. 1, paragraph 9).

12. Claims **59-61, 63, 69-71, 73** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta I et al. in view of Given, further in view of Gutta II et al., and still further in view of Frengut et al.

Referring to claims **59-61, 63, 69-71, and 73**, the combination of Gutta I et al., Given, and Gutta II et al. teaches the method/computer readable medium according to claims 58 and 68. The combination of Gutta I et al., Given, and Gutta II et al. does not specifically teach launching an application, launching an application based on time of day, launching an application that retrieves weather and traffic information, or requesting a refresh of a webpage in response to the user identifier. Frengut et al. discloses generating a custom web page upon identifying a user (p. 2, paragraph 26). The web page is generated using time references to assure that the databases are continuously current and updated with the latest information (p. 6, 7, paragraph 48). The web page also includes weather information (p. 2, paragraph 26), as well as traffic information

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(p. 6, paragraph 41). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the computer of Gutta I et al. in the combination of Gutta I et al., Given, and Gutta II et al. to generate a custom and updated webpage including weather and traffic information, such as that taught by Frengut et al. in order to provide a more efficient method of disseminating information to consumers (Frengut et al. p. 1, paragraph 7).

13. Claims **62**, **72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutta I et al. in view of Given, further in view of Gutta II et al., and still further in view of Stas et al.

Referring to claims **62** and **72**, the combination of Gutta I et al., Given, and Gutta II et al. teaches the method according to claim 58. The combination of Gutta I et al., Given, and Gutta II et al. does not specifically teach denying access to the computer when an aggregate amount of access is exceeded. Stas et al. discloses a system in which a total time limit on the number of viewing hours per day, week, or month can be set (col. 8, l. 18-27). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Gutta I et al., Given, and Gutta II et al. to include setting a time limit on the number of viewing hours, such as that taught by Stas et al. in order to allow a parent a comprehensive and user-friendly control for permitted viewing times for a predetermined future time period (Stas et al. col. 1, l. 65-67 & col. 2, l. 1-2).

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Van Handel/
Examiner, Art Unit 2424

11/23/2009